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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/526,143 | 02/28/2005 | Grant Stuart Richardson | 41577/312175 | 2535 |
| 23370 | 7590 | 03/18/2008 | | |
| JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309 | | | EXAMINER MITCHELL, TEENA KAY | |
| | | | ART UNIT 3771 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/526,143 | Applicant(s) RICHARDSON ET AL. | |
| | Examiner Teena Mitchell | Art Unit 3771 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/29/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

Claim 12 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 12 merely refers back to the sealing piece according to claim 8 and does not further limit claim 8, therefore claim 12 is improper.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10, line 2, "...the first and second portions are locally J or U..." it is unclear as to what is meant by locally.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7 are rejected under 35 U.S.C. 102(a) as being anticipated by
Richardson et.al. (WO 2002/011816).

Regarding claim 1, Richardson discloses a respirator facepiece a first sealing means (at 10) suitable for forming a seal on the face of a user so as to define a first cavity between the first sealing means, the respirator facepiece and an area of the user's face comprising the eyes, mouth and nose, a second sealing means (at 15) suitable for forming a seal on the face of the user so as to define a second cavity, the second cavity being formed between the second sealing means, the first sealing means, a portion of the face of the user and optionally the respirator facepiece, a respirator air inlet (at 5) for conducting inhaling air to the first cavity, a respirator air outlet (at 8) for conducting exhaled air from the first cavity, and an air pressure supply (25; Page 7, lines 4-22) suitable for supplying pressurized air to the second cavity whereby in normal operation air is inhaled and exhaled solely through the first cavity and so substantially no air pressure differential exists between the ambient atmosphere and the second cavity which will allow ambient air to enter the second cavity (Figs. 1, 4).

Regarding claim 2, Richardson discloses at least one eyepiece (at 20) and a means for directing inhaling air over the at least one eyepiece (Page 3, lines 3-23).

Regarding claim 3, Richardson disclose wherein the means for directing inhaling air over the at least one eyepiece (20) is capable of diverting some of the inhaling air directly to the oronasal region of user (Page 3, lines 3-23).

Regarding claim 3, Richardson discloses wherein the means for directing inhaling air over the at least one eyepiece (20) is capable of diverting some of the inhaling air directly to the oronasal region of the user (Page 3, lines 3-23).

Regarding claim 4, Richardson discloses exhaust deflection means (note Fig. 1 at 2; as the person inhales/exhales the air is deflected off of seal (20) and then into (30) thereby preventing exhaled air from contacting the at least one eyepiece (20) capable of preventing exhaled air from contacting the at least one eyepiece (20).

Regarding claim 5, Richardson discloses wherein the exhaust deflection means (at 2) comprises a third sealing means, that in use, engages with the face so as to form ocular and oronasal cavities, the third sealing means being provided with means for permitting gaseous flow from the oronasal cavity to the ocular cavity (Fig. 1).

Regarding claim 6, Richardson discloses a valve assembly (at 18) comprising a valve body (note Fig. 1) having a valve assembly outlet and a valve assembly inlet and a valve cavity there between (Fig. 1), a valve mechanism for permitting gaseous flow through the valve assembly inlet into the valve cavity and to the valve assembly outlet, a continuous purge outlet means (at 30) connectable to an air pressure supply means (at 25, 28), an air deflection means spatially arranged in the valve cavity relative to the valve mechanism and the purge outlet means such that, on connection and activation of a suitable air pressure supply means, air is emitted from the purge outlet means and is incident on the air deflection means such that a curtain of air may be substantially maintained about the valve mechanism (Fig. 1).

Regarding claim 7, Richardson discloses wherein the respirator air inlet is in use, in gaseous communication with the first cavity, thus forming a first gaseous pathway, a second air inlet is in gaseous communication with the air pressure supply means (25, 28) which is capable, in use, of providing gas to the second cavity, thus forming a second gaseous pathway, wherein the first and second air inlets are located in a common filter (at 27) connection means is connectable to a suitable adapted filter (7) such that in use the first and second gaseous pathways are mutually isolated so that inhalation by the user does not substantially affect the pressure in the second gaseous pathway (Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et.al. (WO 2002/011816).

Regarding claim 8, Richardson discloses a sealing piece for a respirator comprising first and second portions (10, 15), each having a respective sealing surface (Fig. 1) suitable for engagement with the face of the user so as to define a substantially sealed cavity (Fig. 1) between the sealing piece and the face of the user, the first and second portions being mutually connected by a third portion (at 3) suitable for attachment to the surface of a respirator (7), the sealing piece further comprising a gas inlet (at 5) for allowing, in use, the supply of pressurized gas to the cavity (Fig. 1).

Richardson does not specifically state that the first and second portions are so shaped that, in use, the application of a positive pressure in the cavity does not cause the seals to be broken, however the first and second portions are shaped to provide a seal upon a users face to provide protection from hostile environments therefore once pressure is reached inside the mask, it would be obvious to one of ordinary skill in the art that the first and second portions would maintain the seal based upon their shape (Figs. 1).

Regarding claim 9, note rejection of claim 8 above.

Regarding claim 10, Richardson discloses wherein the first and second portions are locally J or U shaped in section (Fig. 1).

Regarding claim 11, Richardson discloses wherein at least one of the first and second portions comprises a reverse reflex seal (15, 10; the portions are capable of reverse reflex based upon the flexibility of the material).

Regarding claim 12, Richardson discloses a sealing piece according to claim 8, note rejection to claim 8 above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of art is cited to show respirator face piece devices: 3,227,159; 2,810,386.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena Mitchell whose telephone number is (571) 272-4798. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 5:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Teena Mitchell
Primary Examiner
Art Unit 3771
December 24, 2008

/Teena Mitchell/
Primary Examiner, Art Unit 3771